

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Domel) Art Unit: 3634
Serial No.: 10/062,655)
Filed: February 1, 2002) Examiner: Johnson
For: OPERATING SIGNAL SYSTEM AND METHOD) 1006.023
FOR CONTROLLING A MOTORIZED WINDOW)
COVERING) May 27, 2004
) 750 B Street, Suite 3120
) San Diego, CA 92101
)

AFS
3634

TRANSMITTAL LETTER FOR RESPONSE TO ORDER RETURNING UNDOCKETED
APPEAL TO EXAMINER AND APPLICANT ENTITY CHANGE

Commissioner for Patents
Alexandria, VA 22313

Dear Sir:

Applicant entity status has recently changed; applicant is NOW a large entity.

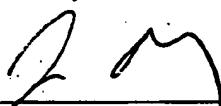
In response to the Order Returning Undocketed Appeal to Examiner dated May 19, 2004, enclosed herewith are the following:

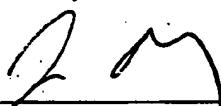
1. Copy of the Order;
2. Copy of the Notice of Appeal, Appeal Brief, Transmittal, credit card payment form and acknowledgment postcard accepted by Board of Patent Appeals September 23, 2003;
3. Acknowledgment postcard.

Applicant's credit card was previously charged \$160 in response to fee code 2401 for small entity status.

Applicant authorizes the Commissioner to charge an additional \$160 to the attached Credit Card Payment Form for fees required under 37 CFR 1.16 or 1.17 in response to Fee Code 1401.

Respectfully submitted,

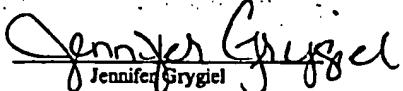

John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075


RECEIVED
JUN 04 2004
GROUP 3600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, First Class Mail, postage fully prepaid, under 37 CFR 1.8, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA on May 27, 2004.

Date Signed: MAY 27, 2004


Jennifer Grygiel

1
EST AVAILABLE COPY



PTO/SB/31 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Docket Number (Optional)

NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES

1006.023

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on September 19, 2003

Signature Jeanne Gahagan

Typed or printed Jeanne Gahagan
name _____

In re Application of

Dome1

Application Number
10/062,655

Filed
February 1, 2003

For **Operating Signal System & Method
for Controlling a Motorized Window**
Art Unit
Covering 3634 Examiner
Johnson

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 320.00

- Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: **\$ _____**
- A check in the amount of the fee is enclosed
- Payment by credit card Form PTO-2038 is attached.
- The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **_____**. I have enclosed a duplicate copy of this sheet.
- A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- applicant/inventor
- assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- attorney or agent of record.
Registration number **33,549**
- attorney or agent acting under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a). **_____**

(Signature)

John L. Rogitz

Typed or printed name

(619) 338-8075

Telephone number

September 19, 2003

Date

**NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required. see below.**

*Total of **2** forms are submitted

This collection of information is required by 37 CFR 1.191. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 06/03/2004 MAHME1
10/03/2003 MBELETE1 00000033 10062655
01 FC:2401 -160.00 OP

06/03/2004 MAHME1 00000083 10062655
01 FC:1401 330.00 OP

31 AVAILABLE COPY

RECEIVED
JUN 04 2004
GROUP 3600

ST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Domel) Art Unit: 3634
Serial No.: 10/062,655) Examiner: Johnson
Filed: February 1, 2002) 1006.023
For: OPERATING SIGNAL SYSTEM AND METHOD) September 15, 2003
FOR CONTROLLING A MOTORIZED WINDOW) 750 B STREET, Suite 3120
COVERING) San Diego, CA 92101
)

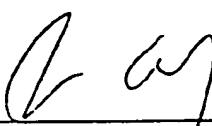
NOTICE OF APPEAL

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

The rejections in the Office Action dated September 2, 2003 are hereby appealed.

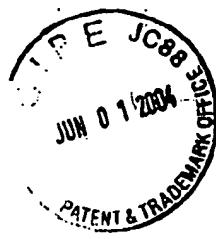
Respectfully submitted,


John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

JLR:jg

RECEIVED
JUN 04 2004
GROUP 3600





BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Domel) Art Unit: 3634
Serial No.: 10/062,655) Examiner: Johnson
Filed: February 1, 2002) 1006.023
For: OPERATING SIGNAL SYSTEM AND METHOD) September 15, 2003
FOR CONTROLLING A MOTORIZED WINDOW) 750 B STREET, Suite 3120
COVERING) San Diego, CA 92101
)

RECEIVED
JUN 04 2004
GROUP 3600

APPEAL BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

This appeal brief is submitted under 35 U.S.C. §134. This appeal is further to Appellant's Notice of Appeal filed herewith.

Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
(1)	Real Party in Interest	2
(2)	Related Appeals/Interferences	2
(3)	Status of Claims	2
(4)	Status of Amendments	2
(5)	Summary of Invention	2
(6)	Issue	3
(7)	Grouping of Claims	3
(8)	Argument	3
App.A	Appealed Claims	

BEST AVAILABLE COPY

CASE NO.: 1006.023
Serial No.: 10/062,655
September 15, 2003
Page 2

PATENT
Filed: February 1, 2002

(1) Real Party in Interest

The real party in interest is the assignee.

(2) Related Appeals/Interferences

No other appeals or interferences exist which relate to the present application or appeal.

(3) Status of Claims

Claims 1-20 are pending and finally rejected.

(4) Status of Amendments

An amendment removing the Section 112 rejections has been submitted and as indicated by the Advisory Action dated September 12, 2003 has been entered.

(5) Summary of Invention

The invention as set forth in, e.g., Claim 1 is a motorized window covering that includes a remote control unit with a transmitter, and an actuator coupled to the window covering. The actuator includes a receiver for receiving at least one signal from the transmitter. A wake-up signal amplifier is electrically connected to the receiver for receiving a wake-up signal having a first frequency, and a data signal amplifier is electrically connected to the receiver for receiving a data signal having a second frequency different than the first frequency, with the data signal carrying information for moving the window covering.

EST AVAILABLE COPY

CASE NO.: 1006.023
Serial No.: 10/062,655
September 15, 2003
Page 3

PATENT
Filed: February 1, 2002

(6) Issue

Whether the claims are unpatentable under 35 U.S.C. §103 as being obvious in light of van Dinteren et al. in view of Buccola.

(7) Grouping of Claims

The appealed claims are grouped together.

(8) Argument

All pending claims (1-20) have been rejected as being unpatentable over van Dinteren et al. in view of Buccola. In marked contrast to the present claims, the primary reference uses only a single data signal to undertake both a wake-up function and a command function, col. 5, lines 50-53, indicating that the signal used by the Schmitt trigger to wake up the circuit is the "first or second signal" referred to at col. 5, lines 4-15 as clearly being the data signal itself. Accordingly, van Dinteren et al. neither teaches nor suggests the use of using a wake-up signal that has a different frequency than the data signal and that as a consequence affords the advantages noted in the present specification on page 11.

Buccola has been used to remedy the above shortfall. The combination of Buccola with the primary reference is improper on two easily understood grounds. First, Buccola is drawn to door locks: the door lock art is not analogous to the window covering art of the present claims. No evidence has been adduced of record that the artisan skilled in the window covering art would logically look to the door lock art, MPEP §2141. Note that the present claims do not presume to cover "power saving methods and systems" generally,

1ST AVAILABLE COPY

CASE NO.: 1006.023
Serial No.: 10/062.655
September 15, 2003
Page 4

PATENT
Filed: February 1, 2002

but rather are specifically directed to the art of window coverings. It would be difficult at best to advance, with a straight face, the argument that door locks are analogous to window coverings.

Second and perhaps not surprisingly given their disparate fields, no suggestion exists to combine Buccola with van Dinteren et al. Nowhere does Buccola suggest using its principles in anything other than locking mechanisms, much less does Buccola suggest using any of its disclosure with window covering operating systems. Van Dinteren et al. nowhere suggests using more than one signal in the first place, so why one would be motivated on the basis of van Dinteren et al. to incorporate, in some unknowable fashion, the locking system of Buccola, much less the particular part of it being relied on in the rejection, is a mystery.

Furthermore, the examiner, quite understandably, ventures no attempt to comply with the requirement of MPEP §2143 to explain why a reasonable expectation of success exists in combining a door lock circuit with a window covering operating circuit. How would van Dinteren et al., precisely, be modified to incorporate a door lock circuit? Would the entire circuit of van Dinteren et al. have to be removed and replaced by the door lock circuit of Buccola, thus enabling van Dinteren et al. certainly capable of unlocking a door but not perhaps moving a window covering? If not, and only the relied-upon part of Buccola used in van Dinteren et al., where and how would this unsuggested portion be dropped into the circuit of van Dinteren et al.? Without understanding quite how Buccola could be incorporated into van Dinteren et al., how can a reasonable expectation of success be shown in compliance with the MPEP?

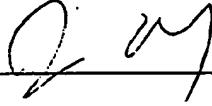
The problem with making a *prima facie* case is further complicated by the fact that the relied-upon teaching of Buccola is sparse indeed. All it states is that two detectors can be provided for receiving respective frequencies, one of which "wakes up" the microprocessor. But nowhere does Buccola teach what

CASE NO.: 1006.023
Serial No.: 10/062,655
September 15, 2003
Page 5

PATENT
Filed: February 1, 2002

generates the frequencies, or how the wake up frequency "prepares" the microprocessor for operation, or even that the microprocessor is deenergized until receipt of the wake up frequency. Given this bare hint at how the wake up feature functions in the intended environment of Buccola, it is no wonder that the requisite prior art suggestion is completely absent of just how the opaque teaching of Buccola could be transferred into a completely unanticipated window covering system.

Respectfully submitted,


John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

JLR:jg

EST AVAILABLE COPY

BEST AVAILABLE COPY

CASE NO.: 1006.023
Serial No.: 10/062,655
September 15, 2003
Page 6

PATENT
Filed: February 1, 2002

APPENDIX A- CLAIMS

1. A motorized window covering, comprising:
 - a remote control unit;
 - a transmitter within the remote control unit;
 - an actuator coupled to the window covering;
 - a receiver within the actuator, the receiver receiving at least one signal from the transmitter:
 - a wake-up signal amplifier electrically connected to the receiver for receiving a wake-up signal having a first frequency; and
 - a data signal amplifier electrically connected to the receiver for receiving a data signal having a second frequency different than the first frequency, the data signal carrying information for moving the window covering.
2. The motorized window covering of Claim 1, wherein at least one wake-up signal is transmittable by the transmitter and receivable by the receiver.
3. The motorized window covering of Claim 2, wherein at least one data signal is transmittable by the transmitter and receivable by the receiver.
4. The motorized window covering of Claim 3, wherein the wake-up signal amplifier is energized continuously.
5. The motorized window covering of Claim 4, wherein the data-signal amplifier is de-energized until the wake up signal is received at the receiver.
6. The motorized window covering of Claim 5, wherein the data-signal amplifier is de-energized if the data signal is not received at the receiver within a predetermined time period.
7. A method for controlling a motorized window covering, comprising the acts of:
 - deactivating a data signal amplifier;
 - activating a wake-up signal amplifier; and
 - activating the data signal amplifier to process a data signal to move the window covering only in response to a wake-up signal being received by the wake-up signal amplifier, the wake up signal having a first frequency and the data signal having a second frequency different from the first frequency.
8. The method of Claim 7, further comprising the act of:
 - when a data signal is received at the data signal amplifier, operating the motorized window covering in response thereto.

BEST AVAILABLE COPY

CASE NO.: 1006,023
Serial No.: 10/062,655
September 15, 2003
Page 7

PATENT
Filed: February 1, 2002

9. The method of Claim 8, further comprising the act of:
if a data signal is not received within a predetermined time period, deactivating the data signal amplifier.
10. The method of Claim 7, wherein the wake-up signal is generated by a remote control unit.
11. The method of Claim 8, wherein the data signal is generated by a remote control unit.
12. A system for controlling a motorized window covering, comprising:
an actuator mechanically coupled to an operator of the window covering;
a receiver within the actuator;
a wake-up signal amplifier electrically connected to the receiver for receiving a wake-up signal having a first frequency;
a data signal amplifier electrically connected to the receiver for receiving a data signal having a second frequency different than the first frequency, the data signal carrying information for moving the window covering; and
a processor within the actuator; the processor including a program for controlling the actuator in response to at least one data signal.
13. The system of Claim 12, wherein the program includes:
means for deactivating a data signal amplifier;
means for activating a wake-up signal amplifier; and
means for activating the data signal amplifier only in response to a wake-up signal being received by the wake-up signal amplifier.
14. The system of Claim 13, wherein the program further includes:
means for operating the motorized window covering in response to the data signal being received by the receiver.
15. The system of Claim 14, wherein the program further includes:
means for deactivating the data signal amplifier if a data signal is not received within a predetermined time period.
16. The system of Claim 12, further comprising:
means for generating the wake-up signal.
17. The system of Claim 12, further comprising:
means for generating the data signal.
18. The system of Claim 12, further comprising a head rail supporting a motor of the actuator and holding at least one battery electrically connected to the motor.

CASE NO.: 1006.023
Serial No.: 10/062,655
September 15, 2003
Page 8

PATENT
Filed: February 1, 2002

19. The system of Claim 18, wherein the at least one battery is an alkaline or Lithium battery.
20. The system of Claim 18, wherein the at least one battery is the sole source of power for the motor.

BEST AVAILABLE COPY



1006.023

1ST AVAILABLE COPY

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAY 19 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS R. DOMEL and WINSTON G. WALKER

Application No. 10/062,655

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 8, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On September 23, 2003, appellants filed an appeal brief (Paper No. 11). A review of the file reveals that the fee was not charged for the appeal brief. Before further review of this file, the appeal brief fee must be applied to the appellants' account.

RECEIVED
JUN 04 2004
GROUP 3600

Application No. 10/062,655

Also, appellants filed an Information Disclosure Statement (IDS) (Paper No. 12) on November 28, 2003. It is not clear from the record whether the examiner considered the IDS submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

In addition, on December 29, 2003, the examiner filed an examiner's answer (Paper No. 13). There is no indication that an appeal conference was held because the examiner's answer contains only the typed names of the conferees. No signature or initialing by the conferees is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

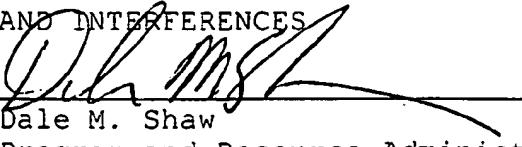
Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) entry of the appeal brief fee; 2) consideration of the Information Disclosure Statement (Paper No. 12);

Application No. 10/062,655

3) appropriate notification by the examiner to appellants of such consideration; 4) proper indication that an appeal conference was held; 5) notifying the appellants, in writing, that the appeal conference was held; and 6) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES
By: 
Dale M. Shaw
Program and Resource Administrator
(703) 308-9797

cc: John L. Rogitz, Esq.
Rogitz & Associates
750 "B" Street, Suite 3120
San Diego, CA 92101

DMS/tdl/tcs
RA04-0555